

**DECISION**



12327 TEARS  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-196711

DATE: December 19, 1979

MATTER OF: Mid-South Specialties, Inc. P.3462

**DIGEST:**

No legal basis exists for reformation of contract based on mistake in bid discovered after award where contracting officer notified low bidder of basis for suspicion of error in bid and requested verification since acceptance of verified bid resulted in valid and binding contract.

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The Veterans Administration (VA) requests our opinion regarding reformation of contract No. V621C-237 awarded to Mid-South Specialties, Inc. (Mid-South) by the Veterans Administration because of a mistake in bid discovered after award. The contract is for tuckpointing and waterproofing of three buildings at the VA Medical Center, Mountain Home, Tennessee. Mid-South allegedly underestimated its labor costs and costs for benefits, taxes and insurance for the tuckpointing on one of the buildings by \$24,166.80 because of its failure to multiply the hourly rate for the projected 137 days of labor by 8 hours per day. 16

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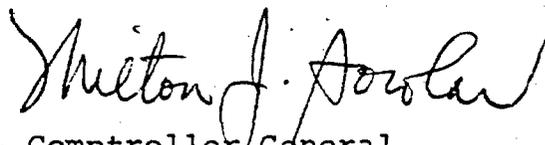
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Bids were opened on September 19, 1979, with two bids being received, Mid-South's at \$51,822, and one other for \$98,105.17. We have been informally advised that the Government estimate for the project was between \$50,000 and \$100,000. Due to the large disparity in the bids and the inconclusive nature of the Government estimate, the contracting officer telephoned Mid-South on September 21 to obtain bid verification. The telephone contact report from the VA indicates that Mid-South's vice president and estimator "asked if something was wrong with his bid, and also asked for the bid results, which I gave him." The bid was confirmed on the same day. A notice of award was mailed to Mid-South on September 25, 1979. On September 29, Mid-South asserts it realized it had made an error.

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The general rule applicable to a mistake in bid alleged after award is that the sole responsibility for preparation of a bid rests with the bidder, and where a bidder makes a mistake in bid it must bear the consequences of its mistake unless the mistake is mutual or the contracting officer was on actual or constructive notice of error prior to award. Ohiocraft Printing, Inc., B-194056, February 22, 1979, 79-1 CPD 127. After opening of bids, where there is reason to believe that a mistake may have been made, the contracting officer is required to request verification of the bid. 41 C.F.R. § 1-2.406-1 (1979). Provided the request for verification is adequate, acceptance of the verified bid results in a valid and binding contract. See Telectro Systems Corp., B-194632, May 17, 1979, 79-1 CPD 361. Proper verification requires that in addition to requesting confirmation of a bid price, the contracting officer must apprise the bidder of the mistake which is suspected and the basis for such suspicion. Los Angeles Chemical Co., 58 Comp. Gen. 293 (1979), 79-1 CPD 114.

We believe the requested verification was adequate and as a result, the notice of award resulted in a valid and binding contract. The only basis to suspect an error was the pricing discrepancy between the bids since the bidding was on a lump sum basis. That information was clearly conveyed to the bidder. We believe that under these circumstances, the alleged mistake was unilateral, not mutual, and thus, in our view, there is no legal basis to reform the contract.



For the Comptroller General  
of the United States